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U.S. DISTRICT COURT E.D.N.Y.

★ JAN 20 2012 ★

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF NEW YORK

-----x  
UNITED STATES OF AMERICA,

-against-

JOHN ARMSTRONG,

ORDER

07-CR-874

Defendants.

-----x

**JACK B. WEINSTEIN, Senior United States District Judge:**

For the reasons stated on the record, the motion for resentencing is denied. Defendant John Armstrong stipulated at his plea that he was accountable for conspiring to distribute more than 500 grams of cocaine base. Tr. of Criminal Cause for Pleading 27:16-18, July 1, 2008. At his sentencing hearing on November 25, 2008, defendant's adjusted offense level was found to be thirty-one, with a criminal history category of III, resulting in a guidelines ranges of 135 to 168 months. He was sentenced to eighty-four months of imprisonment. Doc. Entry 194, Nov. 25, 2008. Pursuant to the Fair Sentencing Act (FSA) adjusted guidelines, defendant's adjusted offense level would be twenty-nine, resulting in a guidelines range of 108 to 135 months. Because his current sentence is "less than the minimum of the amended guideline range," and he did not render substantial assistance to the government, he is not eligible for resentencing. U.S. Sentencing Guidelines Manual § 1B1.10(b)(2)(A) (2011); *id.* cmt. n.2 (2011); *see also Dillon v. United States*, 130 S.Ct. 2683, 2691-92 (2010).

SO ORDERED  
  
Jack B. Weinstein  
Senior United States District Judge

Dated: January 20, 2012  
Brooklyn, New York

glw